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**APR 15 2004**

In re Application of  
Thomas Charles Elleman et al  
Application No. 09/701,437  
Filed: March 2, 2001  
Attorney Docket No. 50179-086

**OFFICE OF PETITIONS**  
**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2004, to revive the above-identified application.


The petition is **DISMISSED AS MOOT** for the reasons stated below.

A review of the file record discloses that a final Office action was mailed on September 22, 2003, setting a three month shortened statutory period for reply. Extensions of time under the provisions of 37 CFR 1.136(a) were permitted. Therefor, a reply, with the appropriate extension of time fee, was due on or before March 22, 2004. A fee for a two (2) month extension of time \$420.00 and the Notice of Appeal with \$330.00 fee were received in the U.S. Patent and Trademark Office (USPTO) on February 23, 2004. However, it is noted that the petition for extension of time filed on February 23, 2004, authorized the USPTO to "charge any additional fees or credit any overpayment to Deposit Account No. 500417." Therefore, since the petition for extension of time authorized to charge additional fees pursuant to 37 CFR 1.17 was timely filed, this application file is not in fact abandoned.

As explained above, the \$1,330.00 received for the instant petition is unnecessary and will be credited to petitioner's Deposit Account No. 50-0417.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being referred to Technology Center AU 1631.

  
Wan Laymon  
Lead Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy